

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

BLUE CROSS AND BLUE SHIELD  
ASSOCIATION,

Plaintiff,

v.

UHS OF DELAWARE, INC.; UNIVERSAL  
HEALTH SERVICES, INC.; WELLINGTON  
REGIONAL MEDICAL CENTER,  
INCORPORATED; and DOES 1-10,  
inclusive,

Defendants.

No. 1:12-cv-08196

Judge Gary Feinerman

**DECLARATION OF EMILY BARNHART IN SUPPORT OF PLAINTIFF'S REPLY IN  
SUPPORT OF ITS EMERGENCY MOTION FOR PROTECTIVE ORDER**

In accordance with 28 U.S.C. § 1746, I, Emily Barnhart, declare under penalty of perjury that the following statements are true:

1. I am of legal age. I have personal knowledge of the facts stated in this declaration and, if called upon, could and would competently testify to them. All of the matters stated here are known to me personally, unless stated on information and belief; and with regard to those statements, I am informed and reasonably believe them to be true.

2. I am an employee of Blue Cross and Blue Shield Association and serve as Brand Counsel. I have served as Brand Counsel for BCBSA since approximately February, 2012. Some of my general duties and areas of responsibility include advising BCBSA on trademark matters, including protecting the BLUE CROSS and BLUE SHIELD brands from trademark

infringement and dilution. In my role as Brand Counsel, I am familiar with the content of BCBSA's settlement agreements involving brand and trademark issues.

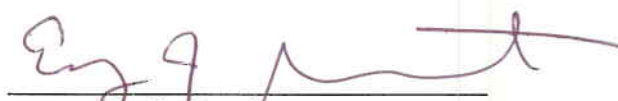
3. I am familiar with BCBSA's record-keeping practices pertaining to legal department correspondence files and pertaining to its trademarks, service marks, and brands, including settlement agreements. Settlement agreements between BCBSA and third parties involving trademark issues, including the July 22, 2011 settlement agreement at issue in this case, are kept confidentially in BCBSA's legal department in lockable rooms. BCBSA's electronic legal department files are accessible only by certain specified individuals who have a need to know of legal department matters.

4. It is exceedingly rare for BCBSA to make any monetary payment as part of a settlement agreement. Accordingly, settlement agreements such as the one at issue are kept under lock and key in BCBSA's legal department, and are not shared with other departments within BCBSA.

5. Information contained in trademark settlement agreements, and in particular information concerning rare instances of BCBSA making monetary payments, has significant value to BCBSA. At a minimum, it has value and importance in terms of BCBSA's litigation and brand protection strategies, and also in negotiating and navigating business relationships that might have overlap with brand valuation. If the contents of BCBSA's settlement agreements were disclosed publicly, and particularly where they include monetary payments, it may prejudicially affect BCBSA's activities in both of these areas by providing third parties with valuable confidential information. This may impact BCBSA's ability to resolve ongoing and future dispute and to have even and fair business dealings.

6. I am familiar with the instant litigation and with BCBSA's prior correspondence with Defendants. Before filing their counterclaim, Defendants did not provide BCBSA a copy of the counterclaim or inform BCBSA of the content of the counterclaim. Defendants gave BCBSA no notice that they intended to include in their counterclaim the confidential contents of the parties July 22, 2011 settlement agreement or that they intended to attach complete and unredacted copies of the agreement.

Dated and signed this 6<sup>th</sup> day of August, 2013.

  
Emily Barnhart

**CERTIFICATE OF SERVICE**

**Case No 12-cv-8196**

I, Laura Prongos, declare that I am a resident of the State of California; I am over the age of 18 years and not a party to the action entitled *Blue Cross and Blue Shield Association v. UHS of Delaware, Inc., et al.*; that my business address is 425 Market Street, San Francisco, CA 94105. On August 6, 2013, I served a true and accurate copy of the document(s) entitled:

**DECLARATION OF EMILY BARNHART IN SUPPORT OF PLAINTIFF'S REPLY IN  
SUPPORT OF ITS EMERGENCY MOTION FOR PROTECTIVE ORDER**

on the party(ies) in said action by placing said copy(ies) in a sealed envelope, addressed to the last address(es) given by the party(ies) as follows:

Nicholas Anaclerio  
Robert Rigg  
Aruna Subramanian  
VEDDER PRICE P.C.  
222 N. LaSalle Street, Suite 2600  
Chicago, IL 60601

*Attorneys for Defendants*  
UHS of Delaware, Inc.; Universal Health  
Services, Inc.; Wellington Regional Medical  
Center, Incorporated

I deposited each sealed envelope, with the postage prepaid, to be delivered via U.S. First Class Mail to the party(ies) listed above.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct and was executed on August 6, 2013 at San Francisco, California.

/s/ Laura Prongos

Laura Prongos